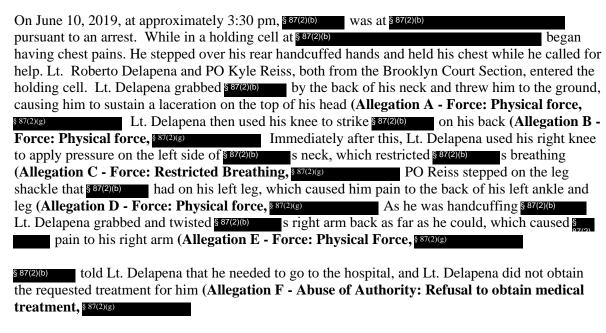
## **CCRB INVESTIGATIVE RECOMMENDATION**

| Investigator:              |   | Team:  | CCRB Case #:           | ☑ I   | Force      | Discou        | ırt. [ | ☐ U.S.    |
|----------------------------|---|--|------------------------|-------|------------|---------------|--------|-----------|
| Shadman Khan               |   | Squad #12  | 201905971              | ☑ A   | Abuse      | O.L.          | [      | ☐ Injury  |
| Incident Date(s)           |   | Location of Incident:  |                        | Pr    | ecinct:    | 18 Mo. SC     | L I    | EO SOL    |
| Monday, 06/10/2019 3:30 PM |   |  |                        |       | 84         | 12/10/202     |        | 7/27/2021 |
| Date/Time CV Reported      |   | CV Reported At:  | How CV Reported:       | I     | Date/Time  | Received at 0 | CCRI   | 3         |
| Tue, 07/09/2019 10:30 AM   |   | CCRB   | Phone                  | 7     | Γue, 07/09 | /2019 10:30   | AM     |           |
| Complainant/Victim         | Туре  | Home Addre   | ess                    |       |            |               |        |           |
|                            |   |  |                        |       |            |               |        |           |
| Subject Officer(s)         | Shield  | TaxID  | Command                |       |            |               |        |           |
| 1. POM Kyle Reiss          | 16078   | 957994   | BKLN CT                |       |            |               |        |           |
| 2. LT Roberto Delapena     | 00000   | 936444   | BKLN CT                |       |            |               |        |           |
| Witness Officer(s)         | Shield N  | o Tax No   | Cmd Name               |       |            |               |        |           |
| 1. POM John Mccarthy       | 24558   | 964155   | 078 PCT                |       |            |               |        |           |
| Officer(s)                 | Allegatio   | on   |                        |       | Inve       | stigator Red  | comi   | nendation |
| A.LT Roberto Delapena      | Force: Lieutenant Roberto Delapena used physical force against § 87(2)(b) |  |                        |       |            |               |        |           |
| B.LT Roberto Delapena      | Force: Li   | ieutenant Roberto Delap<br>87(2)(b)  | ena used physical fo   | rce   |            |               |        |           |
| C.LT Roberto Delapena      |   | ieutenant Roberto Delap<br>breathing.                                      | ena restricted § 87(2) |       |            |               |        |           |
| D.POM Kyle Reiss           | Force: Po<br>§ 87(2)(b)   | olice Officer Kyle Reiss   | used physical force    | again | nst        |               |        |           |
| E.LT Roberto Delapena      | Force: Li<br>against §  | ieutenant Roberto Delap<br>87(2)(b)  | ena used physical fo   | orce  |            |               |        |           |
| F.LT Roberto Delapena      |   | ieutenant Roberto Dela <sub>l</sub><br>treatment for <sup>§ 87(2)(b)</sup> | pena failed to secure  |       |            |               |        |           |

## **Case Summary**

On July 9, 2019, \$87(2)(b) filed this complaint via phone with the CCRB.

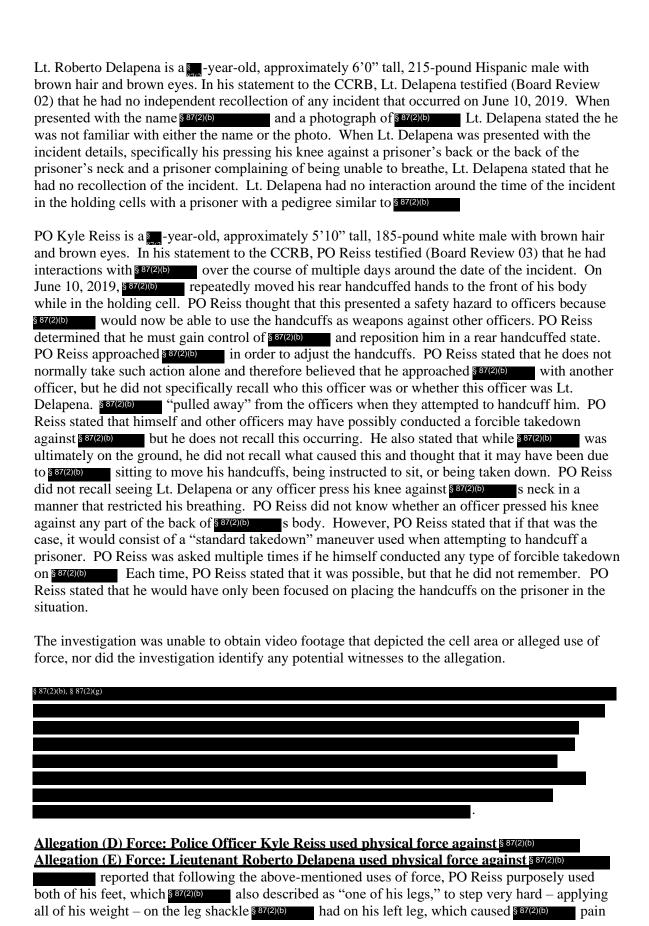


There was no video footage obtained during the course of the investigation.

## **Findings and Recommendations**

Allegation (A) Force: Lieutenant Roberto Delapena used physical force against 337(2)(5) Allegation (B) Force: Lieutenant Roberto Delapena used physical force against 887(2)(5) Allegation (C) Force: Lieutenant Roberto Delapena restricted § 87(2)(6) Is breathing. was arrested on May 30, 2019. In his statement to the CCRB (Board Review 01), stated that he had been at (\$87(2)(b) Hospital-Brooklyn for a week related to a pacemaker before he was escorted to a holding cell at § 87(2)(b) on June 10, 2019 at approximately 3:30pm. A short while after being placed in his cell, \$87(2)(6) started having chest pains and called out for help, stating that he was experiencing chest pains and could experience breathing problems. § 87(2)(b) stepped over his rear handcuffed hands so that he could hold his chest. PO Reiss and an officer's identified as "Sergeant Pena" from the officer's name tag and described as 6'2" tall and 300-pound bald Hispanic male approached [307(2)(b)] the holding cell while he was in a bent forward position. The second officer was identified by the investigation as Lieutenant Delapena. Lt. Delapena immediately grabbed 8 87(2)(6) threw him onto the floor on his face, which caused him to hit an unspecified object and sustain a gash on the top of his head. §87(2)(b) did not physically resist when he was thrown to the ground and continued to state that he could not breathe. Lt. Delapena used his knee to strike him in the back, which caused § \$7(2)(5) pain in the back. Lt. Delapena then used his right knee to apply pressure to the left side of \$87(2)(b) s neck and to his left shoulder near \$87(2)(b) for ten to fifteen minutes, which caused \$37(2)(b) to be completely unable to breathe and cut off his circulation. §87(2)(b) also commented that the pressure was exacerbated by the fact that he has scoliosis, a condition which causes him difficulty breathing whenever there is pressure applied to spoke out multiple times during the incident, indicating that he was unable to his back. § 87(2)(b) breathe. § 87(2)(b) also stated that Lt. Delapena kept his right knee positioned on his back and repeatedly kneed him in the back.

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| pain on his right arm. S87(2)(6) also stated that he was particularly sensitive on the right arm due to a car accident in the past which resulted in surgery where he required pins and rods to be placed in his arm.   |  |  |  |  |  |  |
|---|--|--|--|--|--|--|
| As noted above, Lt. Delapena testified that he had no independent recollection of any incident that occurred on June 10, 2019, even after being informed of specific details of this alleged incident.  |  |  |  |  |  |  |
| PO Reiss denied that he would intentionally step on leg shackles to cause injury to a prisoner. He stated that he would potentially use his body weight on leg shackles to stop a prisoner from moving their legs, but he did not recall taking this action with PO Reiss testified that PO Reiss took with respect to his leg shackles.  |  |  |  |  |  |  |
| § 87(2)(b), § 87(2)(g)  |  |  |  |  |  |  |
|   |  |  |  |  |  |  |
|   |  |  |  |  |  |  |
|   |  |  |  |  |  |  |
| Allegation (F) Abuse of Authority: Lieutenant Roberto Delapena failed to secure medical treatment for \$87(2)(b)  stated that he initially requested medical treatment when he first started having the chest pains while in the holding cell. \$87(2)(b) also stated that he asked for medical treatment while Lt. Delapena applied pressure to his neck. \$87(2)(b) reported that after force was used, he told Lt. Delapena that he needed to go to the hospital. Lt. Delapena did not call for medical treatment. In \$87(2)(b) s interview, he said "I told McCartney or the EMS [indiscernible]," but the statement itself is indiscernible. \$87(2)(b) did not receive treatment until he was at in the custody of the Department of Correction at the Brooklyn Detention Complex. |  |  |  |  |  |  |
| As stated in the previous allegations, Lt. Delapena testified that he had no independent recollection of this incident.   |  |  |  |  |  |  |
| PO Reiss testified that he did not see any injury on \$87(2)(b) s head and did not see any part of his body bleeding. PO Reiss recalled prior interactions during \$87(2)(b) s incarceration for the May 30, 2019 arrest where he obtained medical treatment every time \$87(2)(b) requested it. However, PO Reiss did not recall \$87(2)(b) requesting medical treatment before or after this interaction. PO Reiss did not see any officer who was unresponsive to \$87(2)(b) s requests for medical treatment.   |  |  |  |  |  |  |
| § 87(2)(b), § 87(2)(g)  |  |  |  |  |  |  |
|   |  |  |  |  |  |  |
| Civilian and Officer CCRB Histories   |  |  |  |  |  |  |
|   |  |  |  |  |  |  |

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87(2)(b)

- Lt. Delapena has been a member-of-service for fourteen years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. Lt. Delapena's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- PO Reiss has been a member-of-service for four years and has been a subject in two CCRB complaints and three allegations, none of which were substantiated. PO Reiss' CCRB history does not reflect any apparent pattern pertinent to this investigation.

## Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 13, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 06).

| § 87(2)(b)    |           |                    |      |
|---------------|-----------|--------------------|------|
|               |           |                    |      |
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|               |           |                    |      |
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|               |           |                    |      |
| Squad No.:    |           |                    |      |
| Investigator: |           |                    |      |
|               | Signature | Print Title & Name | Date |
| Squad Leader: |           | _                  |      |
|               | Signature | Print Title & Name | Date |
| Reviewer:     | Signature | Print Title & Name | Date |